

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

<p>PHILLIP LEE; PAMELA WHITE; PATRICIA VANDUSEN; RONALD ALLIX; and RANDY WELCH, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>BELVOIR MEDIA GROUP, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. 4:22-cv-12153-SDK-DRG</p> <p>Hon. Shalina D. Kumar</p> <p>Magistrate Judge David R. Grand</p>
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**PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY IN
FURTHER OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

Plaintiffs hereby move for leave to file a sur-reply in further support of their opposition to Defendant Belvoir Media Group, LLC's Motion to Dismiss Plaintiffs' First Amended Class Action Complaint (ECF No. 18). Plaintiffs submit this Sur-Reply for the limited purpose of responding to the new argument made by Defendant for the first time in its reply brief (ECF No. 23) concerning the decision in *Bozung v. Christianbook, LLC*, 1:22-cv-00304-HYJ-RSK (W.D. Mich. March 6, 2023), which was issued after the filing of Plaintiffs' opposition brief. *See* ECF No. 23-2, PageID.1447-1461. Consistent with the number of pages permitted to Defendant to address this issue (*see* ECF No. 22 and accompanying text-only granting Defendant's request for 11 pages), Plaintiffs' Sur-Reply does not exceed 11 pages (brief attached hereto as **Exhibit A**).

Pursuant to Local Rule 7.1(a), counsel for Plaintiffs communicated with counsel for Defendant prior to bringing this motion. Plaintiffs' counsel was unable to secure concurrence in the relief requested. Defendant stated that it would "agree to a sur-reply but only limited to two pages, commensurate with what [Defendant] requested to address the decision."¹

WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for leave to file the attached Sur-Reply.

¹ It should also be noted that Defendant's discussion of the *Christianbook* decision in its reply continued through substantially more than 2 pages. *See* ECF No. 23, PageID.1430, 1436-1439.

Dated: March 16, 2023

Respectfully submitted,

/s/ E. Powell Miller

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**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR LEAVE
TO FILE SUR-REPLY IN FURTHER OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS**

For Plaintiffs' brief in support of Plaintiffs' Motion for Leave to File Sur-Reply in Further Opposition to Defendant's Motion to Dismiss, Plaintiffs rely on the contents of their motion for leave and their proposed sur-reply and the exhibits thereto.

Dated: March 16, 2023

Respectfully submitted,

/s/ E. Powell Miller

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2023, I electronically filed the foregoing documents using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ E. Powell Miller

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